
**Community & Economic Development &
Trade Committee**

HB 1525

Brief Description: Promoting economic development and community revitalization.

Sponsors: Representatives Kelley, Probst, Conway, Ericks, Herrera, Orcutt, Sullivan, Jacks, Wallace, Springer, Blake, Goodman, Morrell, Maxwell and Simpson.

Brief Summary of Bill

- Modifies the Community Revitalization Financing Act to allow a city, town, or county to impose a 25 year sales and use tax credit against the state sales and use tax.
- Modifies the Community Revitalization Financing Act by lowering the local property tax participation requirement from 75 percent to 60 percent.
- Eliminates the requirement that a fire protection district must agree to community revitalization financing for the process to proceed.

Hearing Date: 2/12/09

Staff: Meg Van Schoorl (786-7105)

Background:

Traditional Tax Increment Financing.

Traditional "tax increment financing" is a method of allocating a portion of property taxes to finance economic development in urban areas. Typically, under tax increment financing, a local government issues bonds to finance public improvements. To repay its bondholders, the local government is permitted to draw upon regular property tax revenue collected from property owners inside a special district surrounding the site of the public improvements. Construction of public improvements tends to increase the market values of nearby properties. Increases in value can result in increased property taxes for each taxing district that includes property near the public improvement. Under tax increment financing, the local government making the

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improvement gets all of the resulting tax revenue increase. For example, if a city makes an improvement that raises nearby property values, the city gets all of the resulting increase in property taxes, rather than sharing that increase with the state, county, and other local districts under the normal property tax allocation system.

1982 Tax Increment Financing Act.

Washington's original tax increment financing legislation was adopted by the Legislature in 1982. The 1982 Act followed the general contours of traditional tax increment financing, as described above.

At the same time the original tax increment financing legislation was adopted, the Legislature also adopted Senate Joint Resolution (SJR) 143, a proposed constitutional amendment that expressly authorized the financing methods described in the 1982 Act. The voters rejected SJR 143 in the November 1982 state general election. However, the legislation authorizing tax increment financing was not contingent on the proposed constitutional amendment, and remained on the books. In 1985, the Legislature passed House Joint Resolution 23, another proposed constitutional amendment authorizing tax increment financing, and placed it on the ballot. It was also defeated at the polls.

Legislative history for the 1982 Act shows that the Legislature thought tax increment financing might violate the uniformity requirement for property taxes under Article VII, section 1 of the state Constitution.

The City of Spokane attempted to use the 1982 Act to finance redevelopment of the area surrounding Bernard Street in downtown Spokane. A lawsuit challenging the use of tax increment financing to fund these improvements was filed by a property owner in the apportionment district. In 1995, the Washington Supreme Court invalidated Spokane's use of the 1982 Act, ruling that the Act violated article 9, section 2, of the state Constitution, in that it allowed diversion of property tax revenues away from the common schools. That section of the constitution requires that the state tax for common schools be applied exclusively to the support of the common schools. By ruling under the school funding clause of the Constitution, the Supreme Court did not reach other property tax uniformity issues. Therefore, the constitutionality of tax increment financing under the uniformity clause is still an open question.

The Community Revitalization Financing Act of 2001.

In 2001 the Legislature authorized a type of tax increment financing similar to the 1982 Act. Cities, counties, towns, and port districts may create a tax increment area and finance public improvements within the area by allocating property taxes derived from 75 percent of any property value increase generated within the area after the area is created.

Eligible public improvements. Infrastructure improvements within the increment area including street and road construction and maintenance; water and sewer system construction and improvements; sidewalks and streetlights; parking, terminal and dock facilities; park and ride facilities of a transit authority; park facilities and recreational areas; and, storm water and drainage management systems.

Public improvement costs. Cost of design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement and installation; relocating, maintaining, and operating property pending construction of public improvements; relocating utilities as a result of public improvements; financing public improvements; assessments incurred in revaluing real property; and, related administrative expenses and feasibility studies.

The process.

- An eligible local government adopts an ordinance setting up a tax increment area and specifying the proposed public improvements. The public improvements are expected to encourage private development and increase the fair market value of real property within the area. The private development must be consistent with countywide planning policy under the Growth Management Act.
- An increment area cannot be created without approval of the local governments imposing at least 75 percent of the regular property taxes within the area. This is considered concurrence by all taxing districts within the area.
- Any fire protection district included within an increment area must agree to participate for the project to proceed.
- A public hearing must be held on the proposed ordinance, preceded by publication and posting of legal notices.

Allocation of property tax revenues. The increment area is apportioned property taxes on 75 percent of any value increase in the area after the area is created. The local governments imposing regular property taxes within the area are apportioned the remaining property taxes from 25 percent of any value increase in the area.

State property tax. No portion of the state property tax is diverted to the tax increment area, eliminating the constitutional issue addressed in the 1995 Supreme Court decision.

Bond repayment. Bonds may be repaid from the tax allocation revenues, other tax revenues, full faith and credit of the local government, and other sources of non-tax money available to the local government.

Summary of Bill:

Section 101: Intent.

The Legislature recognizes that public investments in infrastructure promote community and economic development which in turn generate revenues for the state as a whole. It is in the public interest for the state to invest in these projects by providing a sales and use tax credit to local governments that can demonstrate returns to the state.

Section 102: Definitions.

Base year. This is the first calendar year following the creation of an increment area.

Eligible public improvements. Additional improvements include: bridge and passenger rail construction and maintenance; landscaping and streetscaping; environmental remediation; and, electric, gas, fiber, and other utility infrastructure.

Excess excise taxes. This is the amount of local sales and use taxes received by a local government in the measurement year over the base year.

Increment area. This is the geographic area from which taxes are to be appropriated to finance public improvements authorized under this chapter.

Measurement year. This is any calendar year after the base year.

Public improvement costs. "Acquisition" include land acquisition. "Site preparation" includes land clearing. Costs of property demolition pending construction of public improvements are eligible.

Sections 103 - 104: The process.

A number of revisions are made and requirements added to the current process for instituting community revitalization financing.

- An increment area cannot be created without approval of the local governments imposing at least 60 percent of the regular property taxes within the area. This is considered concurrence by all taxing districts within the area.
- A fire protection district is not considered to be participating unless it provides written notice of "opting in".
- An increment area cannot be an entire political jurisdiction.
- An increment area is restricted to the location of the public improvements and adjacent locations, and must have a high likelihood of direct positive business and economic impacts.
- The local government must have a letter of intent, a contract or expectation of a contract with a private developer for private improvements within the increment area.
- The governing body must find that the community revitalization financing will not be used to relocate an in-state business from another area; will improve viability of existing businesses; will be used in areas in need of economic development or redevelopment, without which financing, would not occur; and, will be reasonably likely to increase private investment, employment and generate taxes in excess of the state and local contributions.
- The local governing body must send a meeting notice by US mail to property owners and businesses located within the proposed increment area, and may consult with business organizations and the Office of Minority and Women's Business Enterprises to help give appropriate notice to speakers of English as a second language.

Sections 201 - 202: Allocation of tax revenues.

The county treasurer is required to allocate property taxes beginning in the second calendar year following the creation of an increment area.

Participating jurisdictions are allowed to allocate excess excise taxes for the purpose of financing public improvements under the Community Revitalization Financing (CRF) program.

A local government is required to provide the Department of Revenue (DOR) with accurate information describing the geographical boundaries of the increment area at least 75 days before the effective date of the ordinance creating the area.

Sections 301 - 303: State Contribution and Accountability.

Beginning on July 1, 2011, an approved city, town, or county that creates an increment area and finances public improvements can impose a local sales and use tax, which will be a credit against the amount of tax otherwise collected by the state. The tax must be used only for principal and interest payments on bonds issued for the CRF public improvements.

The tax will expire when the bonds are retired, or 25 years after the tax is first imposed, whichever is first.

The maximum state contribution for an increment area per year is the lesser of \$1 million or the sum of excess state excise taxes and state property tax allocation revenues received in the prior calendar year. The state contribution must be matched by local public sources such as private monetary contributions and local excise and property tax allocation revenues.

The total sales and use tax credits available statewide in fiscal year 2011 will be \$5 million. The DOR will authorize its use on a first come, first served basis. The total sales and use tax credits statewide available beginning in fiscal year 2012 will be the \$5 million adjusted annually by the percentage increase in the value of assessed property statewide.

A local government must report annually to the Department of Revenue (DOR) by March 1. In part, the report must include a summary of revenues received and expended; names of businesses locating within the increment area as a result of the public improvements undertaken; the total number of permanent jobs created; and, the average wages and benefits received by all employees of these businesses. The DOR must present a report to the public and the Legislature by June 1, including the list of public improvements undertaken by local governments financed with community revitalization financing, and a summary of the local government reports.

Sections 401- 403: Bond Authorization.

A local government that issues bonds to finance public improvements may pledge to pay principal and interest on those bonds using some or all of the tax allocation revenues resulting from the public improvements and some or all of the revenues resulting from imposition of the optional local sales and use tax.

Bonds issued by the local government will not constitute a general or specific obligation of the state.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.